IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.RAMACHANDRAN
&
THE HONOURABLE MR. JUSTICE A.K.BASHEER

MONDAY, THE 18TH DECEMBER, 2006 / 27TH AGRAHAYANA, 1928

WA.No. 2306 of 2006(A)

(AGAINST THE JUDGEMENT IN WPC.20004/2006 Dated 15/09/2006)
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APPELLANT/PETITIONER:

RAJANI GOPAL, D/O.P. GOPALAN,
SENIOR ACCOUNTANT, DISTRICT TREASURY,
ALLEPPEY.

BY ADV. SRI.K.A.ABDUL SALAM

RESPONDENTS/RESPONDENTS:
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1. THE DIRECTOR OF TREASURIES,
TREASURY DIRECTORATE,
THIRUVANANTHAPURAM.

2. THE DISTRICT TREASURY OFFICER,
DISTRICT TREASURY OFFICE,
ALAPPUZHA.

3. MURALEEDHARAN, SENIOR ACCOUNTANT,
SUB-TREASURY-KUTHIATHODU.

BY GOVT. PLEADER SRI.MANOJ KUMAR.

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 18/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M. RAMACHANDRAN & A.K.BASHEER, JJ.

W.A.NO. 2306 of 2006

Dated this the 18th day of December, 2006

J U D G M E N T

Ramachandran, J.

Appellant was the petitioner in the writ petition and she sought for a direction to be issued to the respondents. Her request for transfer to Kuthiathodu as Senior Accountant of the Sub Treasury was being consistently overlooked by the second respondent for no valid reasons. According to her, the third respondent had been remaining in the post in violation of norms and appropriate directions were called for.

2. The learned Judge had held that in the matter of transfer and postings, except under exceptional circumstances, the court may not intervene. It was however held that that it would be open to the petitioner to pursue the representations which have been pending. In the appeal filed, Mr.Salam, counsel for the appellant contends that it was a case where interference was required. During the course of the writ petition, a further request had been made, and it is submitted that by order dated 11.9.2006, it had been rejected. As done earlier, the Department had taken a view that the third respondent belongs to the category of Scheduled Caste and in

view of G.O.(P) No.11/90/P&ARD dated 5.5.1990 and G.O.(P) No.12/04/P&ARD dated 10.9.2004, he could not have been transferred. Mr. Salam points out that this was an erroneous view. He submits that apart from general norms in respect of Departments, additional norms had been introduced and were in operation. He refers to Ext.P4 special norms concerning the officers of the Treasury Department. It is highlighted that the employees were not to be retained for more than three years in a treasury. In respect of treasurers, they were not to continue for more than three years in the treasury and in respect of the other officers, it was to be ensured that no person continued in any particular post for more than three years.

3. According to the counsel, when the appellant had returned after maternity leave, she was entitled to a posting in consonance with a request as provided by norms. However, she was overlooked at that time. It is further submitted that the Government Orders relied on by the District Treasury Officer while disposing of the representation itself were inapplicable or in any case were subject to general orders. The protractive provisions were to be interpreted as

subservient to the other norms and there was no privilege preserved whereby the Scheduled caste employees were to be declared as entitled to remain in a sensitive post in violation of the general norms. He has also a case that because of the later orders, the benefit given by such order (Ext.P1) was to be considered as not to be in force.

4. Although notice was served on the third respondent, there was no appearance. Government Pleader submits that it would be ensured that norms are observed and no officer will be preferred or subjected to prejudice. The respondents have to ensure that there is no discrimination meted out when norms are applied. We find that the directives issued by the Government to change the officers in the Treasury Department is for sound reasons viz., that persons who handle the Government funds in a station should not be permitted to continue in the selfsame post indefinitely. It may not be in their interest as well as Government's interest, as unknowingly affinities may develop, pattern may set in, and ultimately, it may not be advisable. We are afraid, it may not be possible to hold that this stipulation stands relaxed in respect of any specified category. A contrary view

would be against public interest. The appellant has therefore, according to us, made a strong case for interference as her claims are sidelined arbitrarily.

5. We direct that in supersession of all orders passed, the first and second respondents should ensure that the appellant is accommodated at Kuthiathodu as Sub Treasury Officer subject of course to any other's superior claims, and as per her request at the earliest. In any case, before the academic year 2007-08 starts, the postings are to be carried out.

The writ appeal is disposed of as above.

sd/-

M. Ramachandran, Judge

sd/-

A.K.Basheer, Judge

Mbs/

-True Copy-

P.A.to Judge.

M. RAMACHANDRAN &
A.K.BASHEER, JJ

W.P.(FC).NO. OF 200

J U D G M E N T

DATED: -11-2006